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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,210	03/27/2001	Peter Wagner	20144-000910	3853
20350	7590	09/02/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				CEPERLEY, MARY
		ART UNIT		PAPER NUMBER
		1641		

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/820,210

EXAMINER

ART UNIT	PAPER
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09012004

DATE MAILED:

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Commissioner for Patents

See the attached letter.

Mary (Molly) E. Ceperley
Primary Examiner
Art Unit: 1641

Art Unit: 1641

1) Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on May 12, 2004. The submission, however, is not fully responsive to the prior Office action because applicants have presented claims for a different invention than that previously prosecuted. See MPEP 706.07(h), VI, (B). Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicants cannot switch inventions). See 37 CFR 1.145. Note also, the species elected in the response of March 12, 2003. Newly amended claim 1 contains a structure with a variable defined as:

"-L³-Z" is an optionally protected amino acid side chain having a pendant reactive group, said reactive group selected from the group consisting of lysine, cysteine, serine, aspartic acid, glutamic acid, and threonine".

The structure containing this definition is entirely different from and therefore independent and distinct from the structure of claim 1 which was pending at the time of the final rejection wherein:

"L₃ is selected from the group consisting of a bond, a substituted or unsubstituted (C₂-C₂₄) alkylene group, a substituted or unsubstituted (C₂-C₂₄) heteroalkylene group, a polyethyleneglycol group, a polyalcohol group, a polyamine group, a polyester group and a polyphosphodiester group" {i.e., L³ is a conventional linker}

and

"Z is a protected or unprotected chemical crosslinking group that covalently links the heterofunctional crosslinking reagent to a label or support wherein Z is rendered inactive when protected."

Applicants are required to submit claims which are drawn to the elected invention.

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).

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2) ***Note: Although the current definition of "-L³-Z" renders the claims drawn to a non-elected invention, it is noted in passing that the term "reactive group" (used in the current definition of "-L³-Z") is defined as a member of the group consisting of the amino acids "lysine, cysteine, serine, aspartic acid, glutamic acid and threonine"; however, amino acids *per se* are not conventionally considered to be *reactive groups*. Page 23, lines 19-21 of the specification provides a definition of a "core component" as being "the residue of an amino acid having a reactive functional group in the side chain (e.g., lysine, serine, aspartic acid, glutamic acid, cysteine and the like)"; i.e., the amino acid itself contains "a reactive functional group in the side chain". See also, the specification at page 23, lines 27-29.

3) ***Note: Applicants are advised that although the use of certain compounds in a protein cross-linking method may possibly involve a new inventive concept, the previously prosecuted claims encompass a myriad of compounds, many of which may be old in the art.

4) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary (Molly) E. Ceperley whose telephone number is (571) 272-0813. The examiner can normally be reached from 8 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le, can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 1641

September 01, 2004

Mary E. Ceperley

Mary (Molly) E. Ceperley
Primary Examiner
Art Unit 1641